

# REGULATION

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| <b>SPDOC No.:</b><br><br>05-03  | <b>Effective Date:</b><br><br>March 27, 2005   | <b>Index Reference:</b><br><br>Disability Payment | <b>Regulation Number:</b><br><br><b>5.13</b>                   |
| <b>Issuing Bureau:</b><br><br>Compensation                                  | <b>Rule Reference:</b><br><br>Rule: 5-9 (Supplement to Workers’ Disability Compensation) |   | <b>Replaces:</b><br><br>Reg. 5.13<br>(CS-6940, March 18, 2001) |
| <b>Subject:</b><br><br><b>DISABILITY PAYMENT FOR DUTY-INCURRED INJURIES</b> |  |   |  |

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### 1. PURPOSE

This regulation establishes standards and procedures for payment of the disability benefit for duty-incurred injuries.

### 2. CIVIL SERVICE COMMISSION RULE REFERENCE

#### ***Rule 5-9 Supplement to Workers' Disability Compensation***

##### ***5-9.1 Duty-incurred Disability Payment***

*Eligibility for workers' disability compensation is established under the Michigan Workers' Disability Compensation Act. In addition, an appointing authority shall pay a supplemental payment authorized in this rule to an eligible injured employee.*

##### ***5-9.2 General Supplement up to Two-thirds***

**(a) Eligibility.** *A classified employee who is disabled by injury or illness for which the employee is eligible for state workers' disability compensation payments is eligible for this supplement.*

**(b) Rate.** *The appointing authority may allow a supplemental wage payment that, together with the workers' disability compensation payment, equals two-thirds of the regular salary or wage, subject to the limitations authorized in the regulations.*

**5-9.3 Special Supplement up to Full Weekly Net Wage****(a) Eligibility.****(1) Employees.** *The following employees are eligible:*

- (A)** *An employee of the department of corrections in a correctional facility who is injured during a riot or as a result of an assault by a prisoner housed in the correctional facility.*
- (B)** *An employee of the department of state who is injured as a result of an assault while performing employment duties, rendering direct services to the public.*
- (C)** *An employee of the department of community health who is injured as a result of an assault by a recipient of mental health services.*
- (D)** *An employee of the family independence agency who is injured during the course of employment as a result of an assault by a recipient of social services at the W. J. Maxey Training School campus in Whitmore Lake or any of its affiliated facilities, the Adrian training school in Adrian, the Arbor Heights Center in Ann Arbor, Camp Nokomis in Prudenville, Camp Shawano in Grayling, or a similar facility under the jurisdiction of the family independence agency established or funded by the state.*
- (E)** *A person employed by the department of military and veterans affairs who is injured during the course of employment as a result of an assault by a recipient of social services at the Grand Rapids veterans facility at Grand Rapids, the D. J. Jacobetti veterans facility at Marquette, or any other veterans facility operated by the department of military and veterans affairs.*

**(2) Limitations.**

- (A)** *The supplement is payable to an employee who is injured as the result of (1) a direct assault, (2) aiding another employee who is assaulted, or (3) responding, when officially obligated, to an alarm signaling an assault.*
- (B)** *The supplement cannot exceed 100-weeks.*
- (C)** *The supplement cannot be paid if the employee receives any similar workers' disability compensation supplement authorized by statute, including supplements authorized in Michigan Compiled Laws (MCL) §791.263a, MCL §38.1181, MCL §330.1113, MCL §400.1c, and MCL §333.2229.*

*(b) Rate. An eligible employee receives full wages from the employing department until workers' compensation benefits begin. After benefits begin, the employee receives a supplement that, when added to the workers' compensation benefits, equals the weekly net wage of the employee at the time of the injury. This supplement is paid only while the person is on the department's payroll and receiving workers' compensation benefits. Fringe benefits normally received by an employee remain in effect while the employee receives this supplement.*

### 3. **STANDARDS**

- A. In case of work-incapacitating injury or illness for which an employee is, or may be eligible for work disability benefit under the Michigan Workers' Compensation Act, an employee may be allowed salary payment which, with the workers' disability benefit, equals two-thirds of the regular salary or wage.
- B. Leave credits may be utilized to the extent of the difference between the two-thirds payment and the employee's regular salary or wage.
- C. Approval of the first 50 weeks of two-thirds pay is based on receipt of a copy of the Notice of Commencement of Compensation Payments form (CS-701) received by the employee's human resources office from the Accident Fund Company. This approval is limited to the employee's normal working days that fall within an expected or specific compensable period under the Michigan Workers' Compensation Act. Salary for permanent intermittent employees is as defined under the Michigan Workers' Compensation Act.
- D. The approval of two-thirds pay is limited to employees who have not received long term disability (LTD) benefits for the same period of disability. If LTD benefits have been paid, and worker's compensation for the same disability is retroactively awarded or the claim is settled by a redemption agreement, consideration of supplemental pay occurs when proper repayment to the LTD Plan has been made, unless the total LTD benefit is used as an offset for workers' compensation. In the case of an LTD offset, some repayment may be necessary to avoid paying the employee more than two-thirds pay.
- E. Employees receiving a retroactive workers' compensation payment must use these funds to repay the LTD Plan in accordance with any repayment agreement between the employee and the LTD plan administrator. In addition, the amount represented by a two-thirds supplement must be handled in one of the following ways:
  - 1. The amount due is calculated, but not processed or paid directly to the employee. Instead, the information is sent to the director of the Office of the State Employer to be used as a credit against the amount owed to the LTD Plan.

2. If the supplement is paid, the employee endorses the check over to the state toward repayment to the LTD Plan.
- F. In accordance with the following statutes, employees who are injured as a result of an assault by an inmate, resident or client will continue to receive, in addition to workers' compensation, a supplement from the department which, together with the workers' compensation equals but does not exceed the weekly net wage of the employee at the time of injury:
- | <b><u>Public Act Number</u></b> | <b><u>Department</u></b>   |
|---------------------------------|----------------------------|
| 293 of 1975 (amended 232, 1953) | Corrections                |
| 414 of 1976 (amended 258, 1974) | Community Health           |
| 131 of 1978 (amended 280, 1974) | Family Independence Agency |
| 452 of 1978                     | State                      |
| 285 of 1987                     | Military Affairs           |
- G. The director of the Office of the State Employer shall consider, upon request, extending approval of the supplemental pay beyond 50 weeks only for those employees who will be able to return to work within 15 weeks, or allow the permanently disabled employee time to apply for duty-disability retirement benefits through the State Employees Retirement System and the Social Security System. The approval of any supplement is limited to a combined total of 100 weeks.
- H. Employees who are receiving workers' compensation and are also on the state payroll receiving an approved supplement are entitled to the state's contribution for group insurances (except LTD) if they remain on the state payroll.
- I. Employees not on the state payroll who receive a workers' compensation benefit are eligible for the state contribution to group insurance (except LTD) if the employees continue to pay their share directly to the respective personnel/payroll office.
1. The state's contribution to the plans must be invoice-vouchered and forwarded to the respective group insurance fund account or insurance carrier.
  2. Continuance of the state contribution is limited to 25 pay periods (50 weeks) from onset of disability if the employee remains on an approved leave of absence and receives continual workers' compensation benefits.
- J. Continuance of the state contribution for insurance in excess of 50 weeks must be approved by the director of the Office of the State Employer with the same limitations as in standard H.

**K. Supplemental pay.**

1. The director of the Office of the State Employer administers the supplemental duty-disabled pay procedure. Documentation for the first 50 weeks of supplement are directed to the employee's human resources office. All correspondence and requests for approvals and extension are sent to the director of the Employee Health Management Division.
2. The appointing authority is responsible for processing the two-thirds supplement and the full net pay supplement on the payroll in accordance with the HRMN procedures.
3. The following chart is provided to assist in the administration of this benefit and to assure that all departments are computing time and granting credits uniformly.

**EMPLOYEE BENEFIT PROVISIONS FOR COMPENSABLE INJURIES**

| <b><u>Benefits</u></b>                       | <b><u>Workers' Comp Only</u></b> | <b><u>Workers' Comp Supplemented to 2/3 Pay</u></b> | <b><u>Workers' Comp Supplemented to 2/3 Pay and 1/3 Leave* (full pay)</u></b> |
|--|----------------------------------|---|---|
| Regular Accrual of Annual Leave              | No                               | No  | Yes   |
| Regular Accrual of Sick Leave                | No                               | No  | Yes   |
| Credit for Step Increases                    | No                               | No  | Yes   |
| Credit for Employment Preference Purposes    | Full                             | Full  | Full  |
| Credit for Longevity                         | Full                             | Full  | Full  |
| Credit for Additional Leave                  | Full                             | Full  | Full  |
| Credit for Holiday Pay                       | No                               | No  | 1/3 credit  |
| Credit for State Contribution for Insurances | Yes                              | Yes   | Yes   |
| Credit for State Contribution for Retirement | Yes                              | Yes   | Yes   |
| Credit Toward Gaining Status                 | No                               | No  | No  |


\*Also applies to employees who are injured as a result of an assault.

**CONTACT**

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-335-7862 or 517-373-7618; or by e-mail to [MDCS-Compensation@michigan.gov](mailto:MDCS-Compensation@michigan.gov).

**NOTE:** Regulations are issued by the State Personnel Director, under authority granted in the *State of Michigan Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.

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